

REMARKS

This is a full and timely response to the non-final Office Action mailed June 10, 2008, in which Applicants' Claims 7-16 were rejected and Claims 1-6 and 17-20 were allowed. By way of this Response, Applicants' Claims 7-10 and 17 have been amended. Reconsideration of pending Claims 7-16, and continued allowance of Claims 1-6 and 17-20, is respectfully requested in view of the following remarks.

I. Claim Rejections under 35 U.S.C. § 102(b)

On page 2, the Office Action rejects Applicants' Claims 7, 8, 10, and 12-16 under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 4,324,981 ("the Miller reference"). Each of these rejected claims is discussed, in turn, below.

A. Applicants' Amended Independent Claim 7

In rejecting Applicants' independent Claim 7, the Office Action appears to consider armature 44 (shown in FIGs. 2-4 of the Miller reference) as tantamount to Applicants' claimed shuttle movable between first and second bi-stable positions. Applicants do not believe the skilled practitioner would consider armature 44 to be a shuttle under a broad, *but reasonable*, interpretation that is consistent with Applicants' Specification. Nevertheless, to further distinguish over the Miller reference in this regard, Applicants have amended independent Claim 7 to further recite that the rapid insertion system includes an optical filter carried by the shuttle. According to amended Claim 7, the optical filter resides within an optical path when the shuttle is in a first bi-stable position and outside of the optical path when the shuttle is in a second bi-stable position. Applicants respectfully submit that the Miller reference does not show, describe, or suggest the feature of an optical filter carried by armature 44 that resides within an optical path when the armature 44 is in a first bi-stable position and outside of the optical path when armature 44 is in a second bi-stable position.

It is well-established that a reference must teach every element of a claim to properly anticipate the claim under 35 U.S.C. § 102(b). MPEP § 2131. Also, "the identical invention must be shown in as complete detail as is contained in the... claim." MPEP § 706.02 citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The Miller reference fails to teach at least one structural

element recited in Applicants' amended independent Claim 7. It is therefore respectfully submitted that the Miller reference cannot properly anticipate Applicants' amended independent Claim 7 under 35 U.S.C. § 102(b).

As no additional rejections have been asserted against Applicants' amended independent Claim 7, it is further respectfully submitted that Claim 7 is allowable.

B. Applicants' Amended Dependent Claim 8

Applicants' Claim 8 depends directly from Applicants' amended independent Claim 7 and is consequently believed allowable therewith. This notwithstanding, Applicants' Claim 8 has been amended to recite additional subject matter not shown, described, or otherwise suggested by the references of record. In particular, Applicants' dependent Claim 8 has been amended to recite that rapid insertion system includes: (i) a low friction guide-way supporting the shuttle, (ii) a base supporting the guide-way, and (iii) one or more springs coupled between the shuttle and the base and adapted to store energy when the shuttle is in the first or second bi-stable position. Notably, the subject matter introduced into Applicants' dependent Claim 8 by way of this amendment is similar to the subject matter recited in Applicants' independent Claims 1 and 17, which have been allowed by the Office Action mailed June 10, 2008.

C. Applicants' Amended Independent Claim 10

As have Claims 7 and 8, Applicants' independent Claim 10 has been amended to further distinguish over the Miller reference and the other references of record. Applicants' independent Claim 10 is directed to a method for moving a shuttle adapted to carry a filter between bi-stable first and second opposed end positions through an intermediate position. The method includes the steps of: (i) determining whether the shuttle is located in the first end position, the intermediate position or the second end position, (ii) if in the first or second end positions, storing the determined location or if in the intermediate position, placing the shuttle in one of the first or second locations and then storing the location, (iii) receiving a desired shuttle location command for the first or second position. As amended, Applicants' independent Claim 10 further recites the step of: (iv) if the desired shuttle location is not for the stored location, sending a signal to the one or more coils to release whichever magnetic latch is holding the shuttle and thereby

move the shuttle to the desired shuttle location so as to: (a) remove the filter from an optical path if the shuttle is in the first end position, and (b) insert the filter into the optical path if the shuttle is in the second end position.

The Miller reference is generally directed to an impulse generator (e.g., generator 10 shown in FIGs. 1-3) that is utilized to actuate a bi-stable latch (e.g., bi-stable latch shown in FIG. 3, which is not taught or suggested to carry an optical filter) and thereby adjust the electrical load of load circuit (e.g., load circuit 64 shown in FIG. 3). The Miller reference does not teach or in anyway suggest the step of moving a shuttle between bi-stable positions so as to selectively remove and insert an optical filter from an optical path. The Miller reference, then, does not teach each of the steps recited in Applicants' amended independent Claim 7 as required to establish a *prima facie case* of anticipation under 35 U.S.C. § 102(b). Considering this, and considering that no additional rejections have been asserted against Claim 7, it is respectfully submitted that Applicants' amended independent Claim 7 is allowable.

D. Applicants' Dependent Claims 12-16

Applicants' dependent Claims 12-16 are believed allowable at least in view of their dependency from Applicants' amended independent Claim 10.

II. Claim Rejections under 35 U.S.C. § 103(a)

On page 3, the Office Action rejects Applicants' Claims 9 and 11 as unpatentable over the Miller reference taken in view of U.S. Pat. No. 6,586,926 ("the Bomya reference").

Applicants note initially that the Bomya reference, which is directed to a magnetic sensor for deployment within a passenger vehicle, does not teach or suggest the features recited in Applicants' amended Claims 7-10 and discussed above as lacking in the Miller reference. With this in mind, Applicants address Claims 9 and 11 below.

A. Applicants' Amended Dependent Claim 9

Applicants' Claim 9 depends indirectly from Applicants' amended independent Claim 7 and is consequently believed allowable therewith. This notwithstanding, Applicants' Claim 9 has been amended to recite additional subject matter not taught or suggested by the cited references. Depending from Applicants' amended Claim 8 (discussed above), Applicants' Claim 9 recites that rapid insertion system further includes: (i) first and second magnetic pieces coupled to the shuttle and spaced apart by a predetermined distance, and (ii) a third magnetic piece and coil sharing a common magnetic axis, the third magnetic piece located between the spaced-apart first and second magnetic pieces. The third magnetic piece cooperates with the first and second magnetic pieces to selectively latch the shuttle in the first and second bi-stable positions, respectively. It should be noted that the subject matter now recited in Applicants' amended dependent Claim 9 is similar to the subject matter recited in Applicants' independent Claims 1 and 17, which are currently allowed.

B. Applicants' Dependent Claim 11

Applicants' Claim 11 is believed allowable at least in view of its dependency from Applicants' amended independent Claim 10.

III. Allowable Subject Matter

Applicants acknowledge with appreciation the statement appearing on page 4 of the Office Action indicating that Claims 1-6 and 17-20 are allowed.

Please note that Applicants' independent Claim 17 has been amended to correct an inadvertent grammatical error.

IV. Conclusion

Considering the foregoing remarks and amendments, Applicants respectfully submit that the Application is now in condition for allowance.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

If, for some reason, Applicant has not paid a sufficient fee for this response, please consider this as authorization to charge INGRASSIA, FISHER & LORENZ, PC, Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,
INGRASSIA, FISHER & LORENZ

Dated: August 22, 2008

/JUSTIN J. LEACH/

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